

85th Legislative Session – 2010

Committee: House Appropriations

Wednesday, March 03, 2010

P - Present
E - Excused
A - Absent

Roll Call

P Burg
P Dennert
P Wismer
P Carson
P Deadrick
P Peters
P Wink
P Putnam, Vice-Chair
P Tidemann, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Representative Larry Tidemann.

MOTION: TO APPROVE THE MINUTES OF MARCH 1, 2010

Moved by: Burg
Second by: Putnam
Action: Prevailed by voice vote.

MOTION: TO APPROVE THE MINUTES OF FEBRUARY 24, 2010

Moved by: Peters
Second by: Putnam
Action: Prevailed by voice vote.

SB 53: make an appropriation for the construction and renovation of a combined minimum security and parole facility in Rapid City and to declare an emergency.

Presented by: Tim Reisch, Department of Corrections (Handouts: 1, 2 and 3)

Opponents: Jeremiah M. Murphy, Perdue, Inc., Rapid City (Handout: 4)

THE CHAIR DEFERRED SB 53 UNTIL LATER TODAY

SB 106: authorize the Board of Regents and the Building Authority to contract for construction of classroom facilities at the University Center in Sioux Falls to replace facilities leased from the Sioux Falls School District, and to make an appropriation therefor.

Presented by: Pam Homan, Supt. Sioux Falls School District

Proponents: Representative Kristi Noem

Senator Thomas Dempster

Janelle Toman, Board of Regents (Handout: 5)

Monte Kramer, Board of Regents

Mark Lee, SD Board of Regents

Jim Abbott, University of South Dakota

Robert O'Connell, Sioux Falls Area Chamber of Commerce

MOTION: AMEND SB 106

106ua

On page 3, line 18, of the printed bill, delete ", penthouses,".

Moved by: Deadrick

Second by: Peters

Action: Prevailed by voice vote.

MOTION: AMEND SB 106

106ba

On page 4, after line 1 of the printed bill, insert:

"

Section 10. The Board of Regents shall file its plan to provide for the operation and the maintenance and repair expenses related to the project authorized in this Act, with the special interim committee created in § 4-8A-2, no later than November 1, 2010."

Moved by: Putnam

Second by: Peters
Action: Prevailed by voice vote.

THE CHAIR DEFERRED SB 106 UNTIL LATER TODAY

SB 53: make an appropriation for the construction and renovation of a combined minimum security and parole facility in Rapid City and to declare an emergency.

MOTION: DO PASS SB 53

Moved by: Putnam
Second by: Peters
Action: Prevailed by roll call vote. (7-2-0-0)

Voting Yes: Burg, Dennert, Wismer, Carson, Peters, Putnam, Tidemann

Voting No: Deadrick, Wink

SB 65: revise the time frame for the design of a new motor license plate series and the issuance of a new motor license plate design series and to transfer funds from the license plate special revenue fund to the prison industries revolving fund.

Presented by: Jason Dilges, Bureau of Finance and Management
Proponents: Eric Erickson, SD Association of County Officials (Handouts: 7 and 8)
Kenneth McFarland, Jr., Minnehaha County
Opponents: Tim Dougherty, 3M Company
Tom Pugh, Self, St. Paul (Handout: 9)
Myron Rau, SD Auto Dealer's Association
David Owen, SD Chamber of Commerce & Industry
Julie Johnson, Absolutely Aberdeen

MOTION: AMEND SB 65

65od

On page 1, line 13, of the printed bill, delete "no" and insert "the".

On page 1, line 13, delete "or" and insert "and".

On page 1, line 14, delete "may take place".

On page 1, line 15, after "2011" insert "shall be delayed until January 1, 2013".

Moved by: Dennert
Second by: Burg
Action: Failed by voice vote.

MOTION: DO PASS SB 65

Moved by: Putnam
Second by: Peters
Action: Prevailed by roll call vote. (8-1-0-0)

Voting Yes: Burg, Dennert, Wismer, Carson, Deadrick, Peters, Wink, Putnam

Voting No: Tidemann

SB 49: revise the General Appropriations Act for fiscal year 2010.

Presented by: Jason Dilges, Bureau of Finance and Management (Handouts: 10 and 11)
Comments: Janet Borchard, Unified Judicial System
Marsha Hultman, Department of Labor
Darin Bergquist, Department of Transportation

THE CHAIR DEFERRED SB 49

MOTION: REMOVE SB 22 FROM THE TABLE FOR IMMEDIATE CONSIDERATION

Moved by: Putnam
Second by: Peters
Action: Prevailed by roll call vote. (8-1-0-0)

Voting Yes: Dennert, Wismer, Carson, Deadrick, Peters, Wink, Putnam, Tidemann

Voting No: Burg

SB 22: establish a fund for the collection of donations to the birth to three program.

MOTION: AMEND SB 22

22cb

On the printed bill, delete everything after the enacting clause and insert:

" Section 1. That § 13-13-10.1 be amended to read as follows:

13-13-10.1. Terms used in this chapter mean:

- (1) "Average daily membership," the average number of resident and nonresident kindergarten through twelfth grade pupils enrolled in all schools operated by the school district during the previous regular school year, minus average number of pupils for whom the district receives tuition, except pupils described in subdivision (1A) and pupils for whom tuition is being paid pursuant to § 13-28-42.1 and plus the average number of pupils for whom the district pays tuition;
- (1A) Nonresident students who are in the care and custody of the Department of Social Services, the Unified Judicial System, the Department of Corrections, or other state agencies and are attending a public school may be included in the average daily membership of the receiving district when enrolled in the receiving district. When counting a student who meets these criteria in its general enrollment average daily membership, the receiving district may begin the enrollment on the first day of attendance. The district of residence prior to the custodial transfer may not include students who meet these criteria in its general enrollment average daily membership after the student ceases to attend school in the resident district;
- (2) "Adjusted average daily membership," calculated as follows:
 - (a) For districts with an average daily membership of two hundred or less, multiply 1.2 times the average daily membership;
 - (b) For districts with an average daily membership of less than six hundred, but greater than two hundred, raise the average daily membership to the 0.8293 power and multiply the result times 2.98;
 - (c) For districts with an average daily membership of six hundred or more, multiply 1.0 times their average daily membership;
- (2A) "Fall enrollment," the number of kindergarten through twelfth grade students enrolled in all schools operated by the school district on the last Friday of September of the previous school year minus the number of students for whom the district receives tuition, except nonresident students who are in the care and custody of a state agency and are attending a public school and students for whom tuition is being paid pursuant to § 13-28-42.1, plus the number of students for whom the district pays tuition. When computing state aid to education for a school district under the foundation program pursuant to § 13-13-73, the secretary of the Department of Education shall use either the school district's fall enrollment or the average of the school district's fall enrollment and the school district's fall enrollment from the prior year, whichever is higher. However, if a school district qualifies to benefit from both the averaging permitted in this subdivision and the one-time payment provided in § 13-13-80 in the same fiscal year, the school district may not benefit from both, but only from the one that provides the most additional funding to the district;

- (2B) "Current fall enrollment," the number of kindergarten through twelfth grade students enrolled in all schools operated by the school district on the last Friday of September of the current school year minus the number of students for whom the district receives tuition except nonresident students who are in the care and custody of a state agency and are attending a public school and students for whom tuition is being paid pursuant to § 13-28-42.1, plus the number of students for whom the district pays tuition;
- (2C) "Small school adjustment," calculated as follows:
- (a) For districts with a fall enrollment of two hundred or less, multiply 0.2 times \$4,237.72;
 - (b) For districts with a fall enrollment of greater than two hundred, but less than six hundred, multiply the fall enrollment times negative 0.0005; add 0.3 to that result; and multiply the sum obtained times \$4,237.72;
- (3) "Index factor," is the annual percentage change in the consumer price index for urban wage earners and clerical workers as computed by the Bureau of Labor Statistics of the United States Department of Labor for the year before the year immediately preceding the year of adjustment or three percent, whichever is less;
- (4) "Per student allocation," for school fiscal year ~~2009~~ 2011 is ~~\$4,664.66~~ \$4,804.60. Each school fiscal year thereafter, the per student allocation is the previous fiscal year's per student allocation increased by the index factor;
- (5) "Local need," is the sum of:
- (a) The per student allocation multiplied by the fall enrollment; and
 - (b) The small school adjustment, if applicable, multiplied by the fall enrollment; and
 - (c) The payment distributed pursuant to § 13-13-80, if applicable;
- (6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by applying the levies established pursuant to § 10-12-42;
- (7) "General fund balance," the unreserved fund balance of the general fund, less general fund exclusions plus, beginning with transfers made in fiscal year 2001, any transfers out of the general fund for the previous school fiscal year;
- (8) "General fund balance percentage," is a school district's general fund balance divided by the school district's total general fund expenditures for the previous school fiscal year, the quotient expressed as a percent;
- (9) "General fund base percentage," is the lesser of:
- (a) The general fund balance percentage as of June 30, 2000; or
 - (b) The maximum allowable percentage for that particular fiscal year as stated in this subsection.
- For fiscal year 2008, the maximum allowable percentage is one hundred percent; for fiscal year 2009, eighty percent; for fiscal year 2010, sixty percent; for fiscal year 2011, forty percent; for fiscal year 2012 and subsequent fiscal years, twenty-five percent. However, the general fund base percentage can never be less than twenty-five percent;
- (10) "Allowable general fund balance," the general fund base percentage multiplied by the district's general fund expenditures in the previous school fiscal year;
- (11) "General fund exclusions," revenue a school district has received from the imposition of

the excess tax levy pursuant to § 10-12-43; revenue a school district has received from gifts, contributions, grants, or donations; revenue a school district has received under the provisions of §§ 13-6-92 to 13-6-96, inclusive; revenue a school district has received as compensation for being a sparse school district under the terms of §§ 13-13-78 and 13-13-79; any revenue a school district has received under the provisions of the American Recovery and Reinvestment Act of 2009 (P.L. 111-5); and any revenue in the general fund set aside for a noninsurable judgment.

Section 2. That § 13-37-35.1 be amended to read as follows:

13-37-35.1. Terms used in chapter 13-37 mean:

- (1) "Level one disability," a mild disability;
- (2) "Level two disability," cognitive disability or emotional disorder;
- (3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-blindness, orthopedic impairment, or traumatic brain injury;
- (4) "Level four disability," autism;
- (5) "Level five disability," multiple disabilities;
- (5A) "Level six disability," prolonged assistance;
- (6) "Index factor," is the annual percentage change in the consumer price index for urban wage earners and clerical workers as computed by the Bureau of Labor Statistics of the United States Department of Labor for the year before the year immediately preceding the year of adjustment or three percent, whichever is less;
- (7) "Local effort," shall be calculated for taxes payable in 2011 and shall be the amount of revenue that could have been generated for the taxes payable in 2010 using a special education levy of one dollar and twenty cents per one thousand dollars of valuation increased by the lesser of three percent or the index factor, as defined in § 10-13-38, plus a percentage increase of value resulting from any improvements or change in use of real property, annexation, minor boundary changes, and any adjustments in taxation of real property separately classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value.
For taxes payable in 2012, 2013, 2014, and 2015, the total amount of local effort shall be increased by the lesser of three percent or the index factor, established pursuant to § 10-13-38 plus a percentage increase of value resulting from any improvements or change in use of real property, annexation, minor boundary changes, and any adjustments in taxation of real property separately classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value;
- (8) "Allocation for a student with a level one disability," for the school fiscal year beginning July 1, ~~2009~~ 2010, is \$4,057. For each school year thereafter, the allocation for a student with a level one disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;

- (9) "Allocation for a student with a level two disability," for the school fiscal year beginning July 1, ~~2009~~ 2010, is \$9,471. For each school year thereafter, the allocation for a student with a level two disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (10) "Allocation for a student with a level three disability," for the school fiscal year beginning July 1, ~~2009~~ 2010, is \$15,220. For each school year thereafter, the allocation for a student with a level three disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (11) "Allocation for a student with a level four disability," for the school fiscal year beginning July 1, ~~2009~~ 2010, is \$13,164. For each school year thereafter, the allocation for a student with a level four disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (12) "Allocation for a student with a level five disability," for the school fiscal year beginning July 1, ~~2009~~ 2010, is \$16,539. For each school year thereafter, the allocation for a student with a level five disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (12A) "Allocation for a student with a level six disability," for the school fiscal year beginning July 1, ~~2009~~ 2010, is \$8,438. For each school year thereafter, the allocation for a student with a level six disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (13) "Child count," is the number of students in need of special education or special education and related services according to criteria set forth in rules promulgated pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education in accordance with rules promulgated pursuant to § 13-37-1.1;
- (14) "Fall enrollment," the number of kindergarten through twelfth grade pupils enrolled in all schools operated by the school district on the last Friday of September of the previous school year minus the number of students for whom the district receives tuition, except any nonresident student who is in the care and custody of a state agency and is attending a public school and any student for whom tuition is being paid pursuant to § 13-28-42.1, plus the number of students for whom the district pays tuition;
- (15) "Nonpublic school," a sectarian organization or entity which is accredited by the secretary of education for the purpose of instructing children of compulsory school age. This definition excludes any school that receives a majority of its revenues from public funds;
- (16) "Nonpublic fall enrollment," until June 30, 2008, the number of children under age sixteen, and beginning July 1, 2009, the number of children under age eighteen, who are approved for alternative instruction pursuant to § 13-27-2 on the last Friday of September of the previous school year plus:
 - (a) For nonpublic schools located within the boundaries of a public school district with a fall enrollment of six hundred or more on the last Friday of September of the previous school year, the number of kindergarten through twelfth grade pupils enrolled on the last Friday of September of the previous regular school year in all nonpublic schools located within the boundaries of the public school district;

- (b) For nonpublic schools located within the boundaries of a public school district with a fall enrollment of less than six hundred on the last Friday of September of the previous school year, the number of resident kindergarten through twelfth grade pupils enrolled on the last Friday of September of the previous school year in all nonpublic schools located within the State of South Dakota;
- (17) "Special education fall enrollment," fall enrollment plus nonpublic fall enrollment;
- (18) "Local need," an amount to be determined as follows:
 - (a) Multiply the special education fall enrollment by 0.1062 and multiply the result by the allocation for a student with a level one disability;
 - (b) Multiply the number of students having a level two disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level two disability;
 - (c) Multiply the number of students having a level three disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level three disability;
 - (d) Multiply the number of students having a level four disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level four disability;
 - (e) Multiply the number of students having a level five disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level five disability;
 - (f) Multiply the number of students having a level six disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level six disability;
 - (g) Sum the results of (a) through (f);
- (19) "Effort factor," for taxes payable in 2011, 2012, 2013, 2014, and 2015, the effort factor is the amount of taxes payable for the year divided by the amount of local effort as calculated in subdivision (7). The maximum effort factor is 1.0."

Moved by: Peters
Second by: Wink
Action: Prevailed by voice vote.

Voting No: Burg, Dennert, Wismer

Comments: Dianna Miller, Large School Group

MOTION: DO PASS SB 22 AS AMENDED

Moved by: Putnam
Second by: Deadrick

Action: Prevailed by roll call vote. (6-3-0-0)

Voting Yes: Carson, Deadrick, Peters, Wink, Putnam, Tidemann

Voting No: Burg, Dennert, Wismer

MOTION: AMEND TITLE OF SB 22

22ctb

On page 1, line 1, of the printed bill, delete everything after "Act to" and insert "revise the per student allocation in the state aid to general education formula, and to revise certain allocations for disabilities in the state aid to special education formula."

On page 1, delete line 2.

Moved by: Peters

Second by: Dennert

Action: Prevailed by voice vote.

SB 49: revise the General Appropriations Act for fiscal year 2010.

MOTION: AMEND SB 49

49aa

On page 12, between lines 19 and 20 of the Senate Appropriations Committee engrossed bill, insert:

" Section 42. That chapter 22 of the 2009 Session Laws be amended by adding thereto a NEW SECTION to read as follows:

Section 39. The state treasurer shall transfer to the state general fund two hundred ninety thousand dollars (\$290,000) from the Department of Game, Fish and Parks fund."

Moved by: Deadrick

Second by: Peters

Action: Failed by voice vote.

Comments: Chris Petersen, Department of Game, Fish & Parks

MOTION: DO PASS SB 49

Moved by: Putnam

Second by: Peters

Action: Prevailed by roll call vote. (9-0-0-0)

Voting Yes: Burg, Dennert, Wismer, Carson, Deadrick, Peters, Wink, Putnam, Tidemann

Representative Putnam presided as chair.

SB 177: revise certain provisions regarding the appropriation process.

Presented by: Representative Larry Tidemann

MOTION: TO TABLE SB 177

Moved by: Tidemann

Second by: Deadrick

Action: Prevailed by roll call vote. (9-0-0-0)

Voting Yes: Burg, Dennert, Wismer, Carson, Deadrick, Peters, Wink, Putnam, Tidemann

Representative Tidemann presided as chair.

SB 106: authorize the Board of Regents and the Building Authority to contract for construction of classroom facilities at the University Center in Sioux Falls to replace facilities leased from the Sioux Falls School District, and to make an appropriation therefor.

MOTION: DO PASS SB 106 AS AMENDED

Moved by: Putnam

Second by: Peters

Action: Prevailed by roll call vote. (9-0-0-0)

Voting Yes: Burg, Dennert, Wismer, Carson, Deadrick, Peters, Wink, Putnam, Tidemann

MOTION: ADJOURN

Moved by: Deadrick

Second by: Peters

Action: Prevailed by voice vote.

Lisa Shafer
Committee Secretary

Larry Tidemann, Chair